

REMARKS

This application has been reviewed in light of the Office Action dated April 7, 2005. Claims 30-68 are presented for examination, of which Claims 30, 36, 37, 43, 44, 50, 51, 57 and 63 are in independent form. Claims 30, 32, 37, 39, 44, 46, 51, 55, 57, 61, 63 and 67 have been amended to define still more clearly what Applicant regards as his invention. It should be noted that these changes are intended only to even further clarify recitations already present in those claims, and not to narrow what Applicant is claiming. Favorable reconsideration is requested.

In the Office Action, Claims 51-68 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,445,460 (*Pavley*), and Claims 30-50 were rejected under 35 U.S.C. § 103(a) as being obvious from *Pavley* in view of U.S. Patent 6,469, 689 (*Dow et al.*).

The general nature and purpose of the present invention has been adequately discussed in previous papers, as has also the primary reference (*Pavley*) relied upon by the Examiner, and it is not thought to be necessary to repeat that discussion in full herein.

Independent Claim 30 is directed to an image transferring apparatus that comprises a storage unit, adapted to store image data, and a display unit. The display unit is adapted to display a screen to enable a user to select between (1) transferring only image data stored in the storage unit which has not previously been transferred and (2) transferring all image data stored in the storage unit. The apparatus also comprises an image data transfer instruction unit adapted to enable a user to enter an instruction to transfer the image data, and a transfer control unit, adapted to perform control to transfer the image data in response to a transfer instruction entered by the user, and to judge a selection selected from the screen displayed by the display unit. If the selection to transfer

only image data not previously transferred is made, the transfer control unit performs control to transfer only the image data not previously transferred based on transfer history information, while if the selection to transfer all image data stored in the storage unit is made, all the image data stored in the storage unit is transferred, regardless of the transfer history information.

Pavley relates to providing and utilizing file attributes with digital images such that an image file is transferred together with a file attribute indicating whether the image file has undergone an archive procedure.

Pavley discusses, at col. 6, lines 10-63, the use of a rule set to perform automatic processing of images in a digital camera, and uses as an example processing in which each image in turn is checked for the presence of an attribute indicating that the image has been archived, and if no such attribute is found, automatically transferring the image in question to a computer for archiving, and associating an “archived” attribute with the image. This portion of *Pavley* states also that other rules can be established to obtain other kinds of automatic processing of the images.

Even assuming that the automatic processing mentioned as an example in the cited portion of *Pavley* can be deemed to correspond to the transfer called for in Claim 30 (that is, transferring only the image data that has not yet been transferred), Applicant strongly urges that nothing in that patent has been found, or pointed out, that would suggest that the user can perform this processing in any fashion but by establishing such a rule. That is, the user of the *Pavley* system can by means of such a rule cause the system to perform the specified processing automatically, but appears to be unable to select, during use, between the options of (1) transferring all the images that have not yet been transferred but not those that have already been transferred, and (2) transferring images without regard

to whether they have been transferred previously. For at least that reason, it is believed clear that Claim 30 is allowable over *Pavley*, taken alone.

Dow was cited in the outstanding Office Action only for the feature of a button, which has been deleted from Claim 30. In any event, nothing has been found or pointed out in *Dow* that would provide what is missing from *Pavley* as a reference against Claim 30, and that claim is deemed to be clearly allowable over both patents, taken separately or in any permissible combination (if there is any).

Independent Claim 36 is directed to an image transferring apparatus that comprises a storage unit, adapted to store image data, a transfer unit, adapted to transfer image data stored in the storage unit, and a button, to instruct to transfer the image data. Also provided is a changing unit, adapted to change transfer history information to a transferred status in the event that the transfer history information of the image data previously transferred by the transfer unit indicates that the image has not been transferred.

From the Office Action, Applicant understands that the Examiner does not find in *Pavley* any teaching or suggestion of the button recited in Claim 36, and Applicant agrees. Applicant does not, however, agree that one of ordinary skill would have found it obvious to modify *Pavley* by the addition of such a button, and certainly such a person would not have been led to the structure recited in Claim 36 simply by referring to *Pavley* and *Dow*. Applicant agrees with the Examiner that the use of buttons as control devices is well known, but Applicant submits that the point of the recitation in question in Claim 36 is that this feature gives the user the ability to manually initiate the process in question. Changing the status attribute of an image in *Pavley* is effected, as far as Applicant can discern, by automatic processing that follows rules pre-established by the user. Once a rule that specifies such attribute changes is in place, the *Pavley* system appears to perform the

attribute changes automatically whenever the criteria of the rule are specified, without invention by the user. While the user can establish a rule that archives any unarchived images and changes the attributes of those images accordingly, that processing occurs automatically, and can neither be initiated, controlled, or halted by the user. In this regard, it is significant that the whole point of *Pavley* is to remove certain processing from the ability of the user to control it in real time. For example, *Pavley* appears to consider real-time control of processing by a user as being a problem that needs to be remedied (col. 1, lines 25-34) and offers the *Pavley* system as a solution (col. 1, lines 36-50). Again, at col. 2, lines 14-17, *Pavley* states that the intention is “to produce more *automatic* handling and management of digital image files [emphasis added]”. Thus, while the Office Action asserts that a person of ordinary skill in the art would have found it obvious to incorporate the *Daw* button in *Pavley*, Applicant submits that, to the contrary, one of ordinary skill would not have any reason to even consider modifying *Pavley* in this fashion because it would tend to defeat the whole purpose of that patent and, thus, render *Pavley* unsuitable for its intended purpose. (See M.P.E.P. § 2143.01.)

For at least that reason, Claim 36 is deemed to be clearly allowable over *Pavley* and *Dow*.

Independent Claim 51 is directed to an image processing apparatus that comprises a capturing unit adapted to capture a plurality of bodies of reduced image data, each corresponding to a respective image, from a storage medium of at least one external device, and a display control unit, adapted to perform control so as to display the reduced image data captured by the capturing unit. A screen display control unit is adapted to perform control so as to display a screen to enable a user to select between (1) selecting

only image data stored in said storage unit which has not previously been transferred and (2) selecting all image data stored in the storage medium, and so as to display, selectively, in response to selection made by the user, either (1) only any image not previously transferred or (2) all images stored in the storage medium.

Applicant submits that Claim 51 is allowable over *Pavley* for reasons analogous to those presented above in connection with Claim 30, particularly because *Pavley* is not seen to teach or suggest the selecting feature of Claim 51.

Claims 37, 43, 44, 50, 57 and 63 are each a method or a storage-medium claim corresponding to one or another of apparatus Claims 30, 36 and 51. Independent Claims 37 and 44 are believed to be clearly patentable over *Pavley* and *Dow* for the same reasons as is Claim 30, independent Claims 43 and 50 are believed to be clearly patentable over those patents for the same reasons as in Claim 36, and independent Claims 57 and 63 are believed to be patentable over *Pavley* for the same reasons as in Claim 51.

A review of the other art of record has failed to reveal anything which, in Applicant's opinion, would remedy the deficiencies of the art discussed above, as references against the independent claims herein. Those claims are therefore believed patentable over the art of record.

The other rejected claims in this application depend from one or another of the independent claims discussed above and, therefore, are submitted to be patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

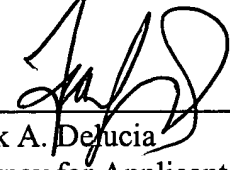
This Amendment After Final Action is believed clearly to place this

application in condition for allowance and its entry is therefore believed proper under 37 C.F.R. § 1.116. In any event, however, entry of this Amendment After Final Action, as an earnest effort to advance prosecution and reduce the number of issues, is respectfully requested. Should the Examiner believe that issues remain outstanding, he is respectfully requested to contact Applicant's undersigned attorney in an effort to resolve such issues and advance the case to issue.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,



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